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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,283	02/06/2004	Saichirou Kaneko	50195-414	4944

7590 10/18/2004
McDERMOTT, WILL & EMERY
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Washington, DC 20005-3096

EXAMINER

ABRAHAM, FETSUM

ART UNIT	PAPER NUMBER
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2826

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,283

Applicant(s)

KANEKO ET AL.

Examiner

Fetsum Abraham

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 recites the limitation "the second impurity" in claim 24. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (6,737,722).

As for claims 1-3, the patent discloses a SiC based BJT (see column 11, 10-20) in the front page having a graded base region defined by the profile shown in figure 4 where the carrier density of the base at the emitter/base junction exceeds that of at the base/collector junction and the rest of the base region. Clearly, depletion is inherent at the junctions whether in application of reverse biased or in the absence of bias application. Although the claim language may not be duplicated in the art, it is clear that at small bias voltage or no bias voltage in the structure, the concentration of carriers at the base/emitter junction still exceeds that of in the bulk base region for a person skilled in the art to find this conclusion obvious since there is close to two order of magnitude more carriers at the junction than at the collector/base junction of the transistor.

As for claims 9-20, the end result of the method claims converges to the structural claim in the preamble. Besides, **"product by process"** claims are directed to the product per se, no matter how actually made, In re Hirao, 190 USPQ 15 at 17 (footnote 3). See also In re Brown, 173 USPQ 685 and In re Thorpe, 227 USPQ 964, 966. Therefore, the way the product was made does not carry any patentable weight as long as the claims are directed to a device. Further, note that the applicant has the burden of proof in such cases, as the above case law makes clear. Also see MPEP 2113.

As for claims 21,22, the emitter is patterned to be formed inside the base and the punchthrough protection layer implies the increases doping profile of the base at the emitter/base junction and the dopant material of the base is clearly the opposite type of that of the emitter and the collector.

As for claims 23,24, the base layer is epitaxially grown and the base can also be a SiC material as indicated above.

As for claims 25,26, the specifically claimed band gap is a function of impurity density, which is a known variable in the art that depends on a specific application.

As for claim 27, boron is a known material for producing P-type semiconductor layer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fetsum Abraham whose telephone number is: 571-272-1911. The examiner can normally be reached on 8:00 - 18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J Flynn can be reached on 571-272-1915.

Fetsum Abraham

10/14/04